

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES KERN,

Plaintiff,

v.

JIM COOPER, et al.,

Defendants.

No. 2:23-cv-0618 AC P

ORDER

Plaintiff is a county prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On November 8, 2023, the court screened the second amended complaint and plaintiff was given the option of amending the complaint or proceeding immediately on cognizable claims only. ECF No. 12. Plaintiff has now notified the court that he would like to proceed immediately on his claims against the Doe defendants without amending the complaint. ECF No. 13. Plaintiff acknowledges that this constitutes a voluntary dismissal without prejudice of all claims against defendant Cooper. Id.

As plaintiff was previously cautioned, due to the impossibility of serving an unknown individual, the court will not order service on the Doe defendants until he had identified them and filed either an amended complaint that names the defendants or a motion to substitute named defendants for the Doe defendants. ECF No. 12 at 3. Plaintiff shall promptly seek such information through the California Public Records Act, Calif. Gov't. Code § 6250, et seq., or

1 other means available to plaintiff.¹ If access to the required information is denied or
2 unreasonably delayed, plaintiff may seek judicial intervention.

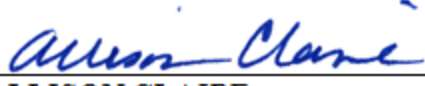
3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The Clerk of the Court shall construe plaintiff's Notice of Election (ECF No. 13) as a
5 VOLUNTARY DISMISSAL of defendant Cooper pursuant to Federal Rule of Civil Procedure
6 41(a)(1)(A)(i) and update the docket accordingly.

7 2. The complaint states a claim for relief against Does 1-3.

8 3. Within sixty days of the service of this order, plaintiff shall file either (1) an amended
9 complaint that names the defendants or (2) a motion to substitute named defendants for the Doe
10 defendants. Failure to do so will result in a recommendation that this action be dismissed.

11 DATED: November 20, 2023

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13 ALLISON CLAIRE
14 UNITED STATES MAGISTRATE JUDGE
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27 _____
28 ¹ Plaintiff may be able to obtain the information he through the jails grievance system or other administrative process.